

Amendment No. 1 to SB3252

**Cooper
Signature of Sponsor**

AMEND Senate Bill No. 3252

House Bill No. 3252*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language following the enacting clause and inserting the following in lieu thereof:

SECTION 1. Tennessee Code Annotated, Title 56 is amended by adding the following as a new appropriately designated section:

56-__ - ____

(a) Every insurance company or risk retention group providing medical malpractice or professional liability insurance to a Tennessee health care institution licensed under Title 68 or health care professional licensed under Title 63, and every health care institution or professional who maintains such coverage through a plan of self-insurance or who does not maintain insurance shall submit to the department of commerce and insurance a report relating to claims for medical or professional malpractice as set forth herein. Any one required to report hereunder shall be referred to as a "reporting entity".

(b) The report shall be filed on or before March 1 of each year beginning March 1, 2005 and shall cover the preceding calendar year.

(c) The initial report filed shall provide the following:

(1) The number of claims made and the amount of damages asserted, if known, other than claims set forth in lawsuits, listed by type of provider and an indication of specialty if any;

(2) Lawsuits filed and damages claimed therein, listed by type of provider and an indication of specialty, if any;

(3) The amount paid on claims, with a separate list of amounts paid by settlement and amounts paid pursuant to a judgment. To the extent possible, the information submitted pursuant to this item should identify separate amounts paid for punitive, compensatory and non-economic damages;

(4) With regard to each claim reported under item (3), the reporting entity shall also list separately, if available, expenses, including attorney fees paid to defense counsel, the portion of any settlement or judgment received by claimant's counsel, expert witness fees, court costs and deposition costs.

Counsel for claimant's asserting claims covered by this section shall provide information about fee arrangements to facilitate reporting required by this item (4).

(d) The second and subsequent reports filed pursuant to this section shall contain, in addition to the information set forth in (c), information identifying those claims that are the subject of settlement or judgment which were contained in a prior report as a pending claim.

(e) The claims reports filed pursuant to subsections (c) and (d) shall include information as to the date of occurrence that is the subject of each claim and the claimant's social security number.

(f) The department shall submit an annual report to the speaker of the senate and the speaker of the house of representatives summarizing the information submitted pursuant to this section. Such annual report shall be submitted on or before June 1 of each year beginning June 1, 2005. Any report shall contain aggregate data only and shall not identify any individual entity or health care provider. The annual report compiled by the department shall aggregate total settlement and judgment to all healthcare providers in connection with a single occurrence, provided that such report shall not contain any claimant social security number.

(g) The information submitted pursuant to this section shall be used solely for the purpose of analyzing trends in health care liability claims.

(h) The information submitted to the department of commerce and insurance pursuant to this section shall be confidential, shall not be subject to public inspection, shall not be subject to discovery, subpoena or legal compulsion for release to any

person or entity, and shall not be admissible in any criminal, civil or administrative proceeding.

(i) Nothing in this section shall be construed to prevent parties to a liability claim or legal action from entering into a settlement of that claim on a confidential basis. Any such agreement shall be mutually binding on all parties by the terms of the agreement, with the exception that any party required to report under this act shall do so and such reporting shall not be considered a breach of any confidential settlement agreement.

(j) The commissioner of commerce and insurance is authorized to promulgate rules to effectuate this section.

(k) The commissioner of commerce and insurance is authorized to enforce the provisions of this act against any entity required to report hereunder, including any health care institution or professional that is self-insured or that does not maintain insurance. Such enforcement power shall be to the same extent the commissioner may enforce this section against insurers required to report hereunder.

(l) The commissioner of commerce and insurance may levy a civil penalty in the amount of one hundred dollars (\$100.00) per day upon a reporting entity that fails to comply with this part.

SECTION 2. Any cost associated with the implementation of Section 1 shall be paid out of existing reserves of the insurance division of the department of commerce and insurance.

SECTION 3. Tennessee Code Annotated, Section 56-3-111 is hereby repealed.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it. This act shall be void on March 30, 2008.